



for ***The Defense***

► ◀ James J. Haas, Interim Maricopa County Public Defender ▶ ◀

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Impeachment with Inconsistent Statements

By Russ Born
Training Director

Watching an accomplished criminal defense lawyer as they skillfully and incisively impeach a witness is a pleasurable moment for most defenders. But accomplishing the same goal in our own trials is not always that easy. A good working knowledge of the evidentiary rules, the caselaw that defines impeachment, and the methods available to perfect it are essential for success. This article will discuss some of those rules, caselaw, and methods.

Who May Impeach

Before the Arizona Rules of Evidence were adopted, arcane rules imposed weird foundational requirements before impeachment could proceed. Impeaching your own witness was not allowed unless the attorney was either surprised by the witness's testimony or the witness was hostile. Rule 607 of the Arizona Rules of Evidence negates those requirements. It states that the "credibility of a witness may be attacked by any party, including the party calling the witness."

(Continued on page 2)

Digital Cameras: Are the Images "Real?"

By James J. Benson
Investigator – Mohave County
Public Defender's Office

Editor's Note: A number of law enforcement agencies are shifting from conventional film cameras to digital cameras. Many, however, are failing to recognize the significance of this shift, particularly as it relates to the foundation for the accuracy of the images

created by digital cameras. This article explains the mechanics of this relatively new technology and provides a checklist of questions that the proponent of this type of evidence should be able to answer in order to establish the proper foundation for use of these images in a criminal proceeding.

The Film Camera and the Digital

(Continued on page 7)

for The Defense

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The rule allows the examiner to impeach the witness at any time during direct or cross-examination. Since the questions that set up the impeachment are foundational, the examiner can lead the witness even on direct. *State v. Duffy*, 124 Ariz. 267 603 P.2d 538 (1979).

Who May Be Impeached

Distinguishing between a truly forgetful witness and one who is uncooperative or feigning forgetfulness created a problem under the old rules and caselaw. The Arizona Supreme Court has discarded that distinction. Where a witness denies making the statement, equivocates regarding whether or not they made the statements or claims no recollection of the statement, they may be impeached with the prior inconsistent statement. *State v. Allen*, 117 Ariz. 168, 170, 571 P.2d 664 (1977).

If the witness simply fails to remember the statement, rather than outright denying it, they still may be impeached. *State v. Robinson*, 164 Ariz. 31, 38, 796 P.2d 853 (1990). Although the examiner may be able to refresh the witness's recollection, there is no requirement that they do so. Choosing impeachment over refreshing recollection is often a matter of trial strategy. But there is no reason to make a witness look bad over a minor issue. This is especially true where the witness is sympathetic and nothing is gained by impeaching them rather than refreshing their recollection. Impeachment should be saved for important issues. Jurors realize the importance of impeachment when it is used dramatically, wisely and sparingly.

Methods

Several methods of impeachment are available to the trial lawyer: Arizona R. Evid., Rule 608, impeachment with character evidence; Rule 609, impeachment with prior convictions; Rule 613 impeachment with prior inconsistent statements; impeaching the witness's ability to perceive, remember and relate and Sixth Amendment,

impeachment through bias, motive and prejudice.

The first installment of this article will discuss impeachment with prior-inconsistent statements. The second part will deal with prior convictions and impeachment through use of character evidence and perception.

Prior Inconsistent Statements

Impeaching through the use of prior inconsistent statements is probably the most common form of impeachment used by the criminal defense lawyer. Considering that we have available all of those fair, accurate and complete police reports along with numerous tapes and transcripts, this form of impeachment becomes a significant tool. It's significance is magnified by Rule 801(d)(1), which allows prior inconsistent statements to be used as substantive evidence. *State v. Acree*, 121 Ariz. 94, 588 P.2d 836 (1978). Thus what actually is or is not a prior inconsistent statement becomes important to the trial practitioner.

Parameters

Under Rule 803 things like present sense impression and excited utterance are *exceptions* to hearsay. They are out of court statements used to prove the truth of the matter asserted. But due to the circumstances under which they were made, they possess certain indicia of reliability that make them admissible. Prior inconsistent statements however, are *excluded* from ever being hearsay under Rule 801(d)(1). There is no foundational requirement that the circumstances under which they were made exhibit indicia of reliability. Truthfulness and reliability have nothing to do with whether or not a statement is a prior inconsistent one. They can be complete fabrications. What counts is whether or not they are different from the testimony. There also is no requirement that they be made under oath. A prior inconsistent statement can be "an oral or written assertion or non-verbal conduct of a person if it is intended by him as an assertion" *State v. White*, 92 Ariz. 306, 376 P.2d 771 (1962). All of these forms of communication

may be used to impeach. Thus the shaking of the head in response to a question or the use of a finger gesture can be used to impeach a witness.

Additionally, an inconsistent statement does not have to be completely contradictory in order to be used to impeach. Where the prior statement taken as a whole, by what it says or omits to say, indicates that the facts were different or somehow contradicts the witness, then the impeachment should be allowed. *United States v. Morgan*, 555 F.2d 238 (9th Cir. 1977).

The absence of some particular detail in a report or failure to mention the detail during testimony or a conversation in which one would expect the fact to be elicited is impeaching. *State v. Tuzon*, 118 Ariz. 205, 575 P.2d 1231 (1978). This of course is impeachment by omission, a technique used quite often by criminal defense lawyers despite all those fair, accurate and complete police reports.

Foundational Requirements for Impeachment with Prior-Inconsistent Statements

There are a few foundational requirements for using the actual physical statement or report to impeach a witness. In the situation where a written report or statement is being used to impeach a witness, usually the witness authored the report. If the witness is not the author but in some way has vouched for the accuracy of the report (e.g. signed it, said it was accurate, gestured, etc.) then the report itself may be used to impeach. A common example is use of a police report to impeach. If you are impeaching the police officer who authored the report or his partner who signed it, then the report is sufficient to impeach. Impeaching a witness by using statements they made to the officer that are contained in the report, requires you to call the officer to perfect the impeachment.

A short example is worth ten paragraphs of discussion.

Lawyer: You told Officer Fisk that you still

loved my client?

Witness: No, I used to love her.

Lawyer: You told Officer Fisk you were going to get even with her?

Witness: No, I meant she would get even.

Lawyer: You said you wanted her to suffer?

Witness: No. That officer is wrong.

Lawyer: I am showing you what is marked as Exhibit 1.

Witness: Yes.

Lawyer: That is a copy of Officer Fisk's report?

Witness: I don't know.

Lawyer: Liar! You know it is a copy of his report.

Witness: (Feigning Shock) I have never seen the report. I have never read it, I don't know what's in it!

Lawyer: (losing it) You lying @\$%\$

Judge: Counsel. Cool off in the pokey!

Obviously part of the above scenario should never occur. But let's look at the underlying purpose of the impeachment and where it went bad. The lawyer should have stopped right after the witness said "No. That officer is wrong". Following up with one question like "So, the officer is the one who is wrong, not you?" may be appropriate where the witness is adamant. But that is it! Arguably, because of victims' rights, there is a good chance that the victim/witness did see the reports and read them. So the lawyer may be right, the witness is a liar. But the lawyer doesn't have the jury's permission to call the witness a liar. The witness

did not write the reports. Nor will the witness vouch for their accuracy or truthfulness. It is the officer who must be called by the defense to impeach the witness. It is the hardworking, truthful and brave officer who tells the jury that the witness is a liar. The issue of whether or not the witness read the reports is not important. What is important is what that lying piece of pond scum said to the officer.

Because we are talking about foundational requirements, two other issues need to be addressed. When the examiner uses a prior inconsistent statement whether it is written or not, they do not have to show it to the witness or disclose its contents. Rule 613(a). Luring the witness in and allowing them to fabricate before the jury is a legitimate goal of the examiner. Asking the witness foundational questions which direct them to the place, date and circumstances of the prior inconsistent statement are no longer required, *Lynn v Helitec Corp*, 144 Ariz. 564, 698 P.2d 1283 (1985).

Using our previous example, the examiner may ask questions like:

Lawyer: You're not a vengeful person?

Witness: No, I'm not.

Lawyer: You're not mean spirited?

Witness: Of course not.

Lawyer: You're not the kind of person who has to get even?

Witness: No.

Lawyer: If someone says you said that, they would be lying wouldn't they?

Witness: Yes.

Lawyer: You would never tell anyone you wanted her to suffer?

Witness: No, I would never say that.

Lawyer: You're just not that kind of guy?

Witness: That's correct, I'm not.

These questions not only set up the impeachment but fulfill the remaining foundational requirement that the witness be given an opportunity to rebut the statements. Assuming the examiner highlights the questioning using a pause here, a little drama there and a touch of irony, the jury now awaits with anticipation the testimony of the officer. Once again it is the officer who will show the jury that the victim/witness is a liar.

Tape Recorded Statements

Using a tape-recorded statement to impeach a witness follows the same rules that apply to any prior inconsistent statement. Proving up the impeachment does present a little different situation in the courtroom. Again using our example, let's assume that the victim/witness who talked to Officer Fisk also talks to you on the phone. During your phone conversation, which is taped, he acknowledges that he lied to the officer about a weapon being present. This was done to prevent himself from being arrested for domestic violence. On the stand during cross-examination the victim/witness testifies that he never made such a statement. He denies talking to you. How do you prove up the impeachment? Actually it is quite simple. Either you use a transcript of the tape or the tape itself. The choice is yours. Using the tape itself is much more powerful. It avoids objections by counsel that the transcript is not certified and also allows the jurors to hear for themselves the witness's voice.

When using the tape it is useful to cue it up to the question just before the impeachment. The question is played, the tape stopped and the examiner says, "That is the question I asked you?" The examiner doesn't care what the witness replies because this is simply a foundational question and

helps the jury understand the context of the answer. The examiner then plays the witness's answer. The jurors not only hear the words but they hear the tone, tenor and expressions. Where there is a series of questions and answers or just a continuous dialog from the witness it is sometimes more effective to play the whole set at one time. Ordinarily, where a witness admits the prior inconsistencies without any equivocation, the examiner will not be able to play the tape. But if they equivocate or intimate that they were cut off, badgered or nervous at the time of the statement, then the tape can be played. In cases where the statements have substantive use and the jury must determine which statements to believe or which were made by the witness, the tape itself is important. The jury should be allowed "to hear the tone of the voice on tape... or look at the film and judge the demeanor of the witness." *State v Woods*, 141 Ariz. 446, 453, 687 P.2d 1201 (1984).

Complaining that the examiner coerced the answers or prevented explanation allows other portions of the tape to be played to rebut that accusation. An example of this is where at the beginning of the tape the lawyer tells the witness to relax, take their time and if they don't understand a question just ask. It is also extremely effective if at the end the witness was asked, "is there anything else you would like to add or explain?" As a practical matter the witness often does not reveal the "coercion and interruptions" until re-direct. Waiting for re-direct to raise these accusations is sometimes done with the hope that the judge will not allow re-cross. But where these issues are first raised on re-direct the cross-examiner is entitled to re-cross and should ask for it, on the record, stating the reasons. *State v. Smith*, 138 Ariz. 79, 673 P.2d 17 (1983).

Conclusion

Knowing the rules and caselaw is only one step towards the goal of mastering impeachment. The next step is practicing some of the techniques used

to accomplish the impeachment and make it worthwhile. That however is the topic for a separate article!



BULLETIN BOARD

New Support Staff

Daniel Radoff, has accepted the position of Investigative Aide with the Office of the Public Defender, effective March 12, 2001.

Support Staff Moves/Changes

Patricia Walker, Legal Secretary assigned to the Juvenile Division in Mesa, has resigned from her position with the Public Defender's, effective March 30, 2001.

Connie Barrick, Records Processor, has resigned her position with the Office of the Public Defender, effective April 13, 2001.

BULLETIN BOARD

New Attorneys

Deonissa Canez has accepted a Defender Attorney position with the Office of the Public Defender, effective April 16, 2001. Ms. Canez is a 1998 graduate of Arizona State University College of Law.

Amy Dohrendorf will join the Office of the Public Defender as a Defender Attorney, effective April 16, 2001. Ms. Dohrendorf is a graduate of the University of Denver College of Law.

Terry A. Hill has accepted a Defender Attorney position with the Office of the Public Defender, effective April 16, 2001. Ms. Hill is a 1999 graduate of Arizona State University College of Law.

Matthew M. Edwards will be joining the Office as a Defender Attorney, effective April 16, 2001. Mr. Edwards is a 1998 graduate of the University of Texas School of Law and has been with the Maricopa County Attorney's Office since December 1998.

Attorney Changes/Moves

Peggy LeMoine, Defender Attorney assigned to Trial Group B, has resigned from her position with the Office of the Public Defender, effective March 16, 2001. Ms. LeMoine is a 1990 graduate of Arizona State University College of Law, and began her career with this department on October 28, 1991. Her Public Defender assignments have included Law Clerk, Defender Attorney II and III, and in July of 1999, Ms. LeMoine was appointed as Lead Attorney for Trial Group B. Ms. LeMoine will be an Assistant Attorney General working with the Department of Revenue.

Cherie L. Howe, Defender Attorney, Trial Group A, has resigned her position with the Office of the Public Defender, effective April 20, 2001. Cherie joined the office in November 1997. She was appointed to the Lead Attorney position for Trial Group A in 1999.

Digital Cameras: Are the Images “Real?”

Continued from page 1

Camera

For the most part, the digital camera works in the same manner as the normal film camera. On the outside, they look pretty much the same and have the same functions. The lens, flash, shutter button, and shutter speed are the same. Most DC's have liquid-crystal display screens allowing you to see exactly what the shot will look like before and after the shutter is pressed. The DC allows you to erase the shot if you don't like it and re-shoot it, without waiting for film to be processed

Both cameras use the same basic method to capture an image. Each allow light to enter through the lens and iris so it can shine on a light-sensitive device (a frame of film in the standard camera). In the DC, light shines on an *image sensor*, causing an electrical charge. From here, the cameras are as different as night and day.

If you were to open the body of the DC, you'd find an image sensor, analog-to-digital converter, digital signal processor, and a removable *storage card* (roll of film in the standard camera). The storage card allows a direct link to a computer.

How the DC Works

When the shutter is pressed down completely, the lens opens and light enters, shining on the image sensor (charge-couple device-CCD). This sensor is a silicon chip about the size of a dime. The chip contains hundreds of thousands to millions of *photosensors* or “pixels.” Each pixel absorbs light and converts it into an electrical charge proportional to the intensity of light entering the DC.

Next, each charge is transmitted to the *analog-to-digital converter*, where it is converted to the digital value used to represent the color that pixel will be. This data then passes to the *digital signal processor (DSP)*, which enhances the image and stores it in the removal storage card.

Once the images are saved, they can be transferred to a computer through a *serial* or *USB cable*, or by placing the storage card directly into the computer or the use of a card reader, personal computer card, or diskette drive. In the computer, images can be stored, sent to other computers, duplicated, enhanced, and/or manipulated with the use of available software. Bottom line, these devices move the images from the DC to the computer.

Software

Most DC's come with the necessary cables to transfer images to computers and software for enhancing/ manipulating them. This software was not created for law enforcement use.

With today's software, even a novice can grossly distort the original image. In fact, almost anything can be done to an image, from color changing to moving and removing items. And, since there is *no negative*, unless you were present during the manipulation, you can't tell anything was done!

For less than seventy dollars you can purchase photo-editing software to enhance your images and manipulate them into entirely new creations. Using this software, anyone can manipulate the color, hue, and contrast of an image. Photo-editing tools can *remove* scratches, cracks, the red-eye in photographs, and the glare from the sun on a vehicle's windshield. You can *add* color, insert items or backgrounds, and even add text. Editing software available to anyone includes: Photo Suite III by MGI software, Photo Express Platinum 2000 by Ulead systems, Photo Gold by Canon, Photoshop and Photo Deluxe Home Edition 4.0 by Adobe.

Scanners

You can continue to use the standard film camera and scan photographs into a computer through a scanner. Today, most scanners are the flatbed type, similar to a copy machine. Scanners connect to a computer and also come with software (listed above) that let you manipulate your images. By taking a regular photograph (note or document) and

placing it on the scanner screen, closing the top and pressing the button, you have just entered the items into the computer. There are other systems that can scan film negatives directly into the computer and some even make single prints. So, an important question is, "Is this photograph a digital or a film print scanned into the computer?" If it's a film print scanned into a computer, "Is it legally considered an original?" I say, "No, the print has a negative somewhere." If that negative was destroyed, then the print becomes the negative (and the original). The chain of evidence would have to be verified very carefully, but that's another article.

Editing programs and scanners give the user the ability to alter the contents of the photograph. A bad photograph can be corrected digitally using this software. The first step is to make sure the contrast is strong. This will also clean up any color balance problems. The second step is taking something blurry and flat and making it very clear. Most programs allow the reverse, softening an image's focus to give a more pleasing feel. Other features are:

Law enforcement agencies have adopted and adapted computers, DC's/Video's, scanners and

Cropping	Removing unwanted portions.
Rotating images	Turning an image clockwise or counter clockwise.
Flipping	Moving an image vertically or horizontally, basically moving an object from one side to the other.
Cloning	Allows you to hide portions of an image by painting over it. The process entails copying a small section of the image and using it to paint over the section(s) you want to cover. For example, an object can be removed from the carpet in a photograph by copying a section of the carpet and painting it over the object. Gone!
Silhouetting	Lets you cut out an object, change its color and or texture and put it back. The same can be done with the background.

software to assist in such areas as record keeping,

dispatching, report writing, crime scene photography, latent and scientific examination, just to mention a few. The *problem* as I see it is that the ability to manipulate images compromises the integrity of the images ultimately provided by law enforcement agencies. Some areas are very hard to control, such as the *security* in protecting the product from being altered without leaving a trace of that alteration. A system must be used to protect evidence, whether latent, photographic, or scientific. It must protect from unauthorized entry, altering or manipulations of any kind, as well as, loss though theft, accident, or computer virus.

Computer and software companies are now looking at *image security*. There are a couple on the market today such as *PC Pros More Hits* for image/latent protection and *Digital CrimeScene*, which protects images and written documents. They are also working on a storage and protection system for video and audio evidence.

At the Arizona Identification Council (AIC) Conference 2000, recently held in Mesa, digital security was discussed. It was said that courts are accepting the computer as the *original* source for images and documents. I don't know which court (s) or what state(s) were being referred to since specific legal information was not disseminated during the conference. The FBI indicated they are not, at this point in time, considering the use of DC's. They feel there are not enough safeguards or standard operating procedures (SOP) in place to protect images from being manipulated.

Others in law enforcement believe DC's to be similar to other tools used by law enforcement; the use of which are dependent upon each law enforcement officer's individual integrity, reputation and ability to do the job honestly and ethically. As Sgt. Bruce Wiley said at the AIC conference, "We have to testify under oath as an expert in our field and this is no difference." All agreed a SOP must be in place in every agency to ensure the protection and proper chain of *all* digital

evidence. For example, a “digital negative” can be created when the raw digital information is downloaded from the DC into the computer, at the same time, it should be downloaded onto a CD or floppy disk, documented, removed, marked, and kept in a separate file away from the computer. That digital information then becomes your *digital negative*, safe and untouched. If the information is to be enhanced, for any reason, it should be from the information in the computer, with each and every step documented, not from the *digital negative*. The bottom line is, when the image (whether film or digital) goes into the computer it becomes a digital value, subject to manipulation if not protected. We have to ensure there is always a digital negative on file - safe and secure.

What to Ask

Let me spend a moment on challenging the other side. First, the user of the DC, and second, the agency, as to what security system is in place to protect their digital negative(s). The following is a sampling of questions that the proponent of this evidence should be able to satisfactorily answer if, in fact, the images have been protected from manipulation.

Conclusion

In closing let me say, part of our job is to keep law enforcement and the prosecutors honest. In order to accomplish this, we have to educate ourselves in

Digital Camera User	Can the user explain how the digital camera works?
	Where was the training and who taught it?
	Can you take black and white digital photographs?
	Who transfers (downloads) the image(s) from the digital camera to the agency computer?
	What size lens is to be used to collect crime scene photographs?

this new technology. If you wonder how far it can

Agency	Do the images go into the department computer or a separate PC?
	Do you have a standard operating procedure regarding digital evidence?
	Is there a security system?
	Can you explain it?
	How many personnel have access?
	What kind of clearance do they have?
	Is there a storage card (CD or floppy) created for each case?
	If manipulations are required, who does them and how are they documented?

go, just look at today’s movies and the computer graphics (CG) used to create them. In the movie *The Gladiator*, millions were spent to create what they did using CG’s. The result was a manipulated view of reality that, for all intents and purposes, sure looks like the real thing! What is the difference between Hollywood’s and law enforcement’s computers? Money, and that’s it!

If you would like further information and have questions, please feel free to contact the author at the Mohave County Public Defender’s Office, P.O. Box 7000, Kingman Az. 86402-7000, e-mail: pubdef@co.mohave.az.us, (520)753-0734, fax (520)753-0793.

Endnotes:

- 1 Smart Computing Magazine, April 2000, Vol. 11, Issue 4.
- 2 Kodak Law Enforcement Program, Eastman Kodak Co., reprint Micro Pub., June 1996.
- 3 Sgt. Bruce Wiley, Homicide San Jose P.D., AIC Conference, June 2000, Mesa, Arizona.
- 4 Tommy Luongo, Investigator, Rhode Island PDO, Providence R.I., NDIA Conference, October 2000.
- 5 David Witske, More Hits, PC Pros, Lakewood, Washington.
- 6 Todd Pastorini, Digital
- 7 CrimeScene Pinnacle Tech. Inc., Greenville, S.C., AIC Conference, June 2000, Mesa, Arizona.
- 8 Mike Brooks, Agent FBI, AIC Conference, June 2000, Mesa, Arizona.



The Service of Subpoenas

By Patrick Sharritts
Process Server

In a nutshell, Arizona Revised Statutes §13-4072 sets forth that “a subpoena in a criminal case may be served by any person.” The subpoena may be served using a variety of methods. Those methods include: personal service, certified mail, or first class mail if a certificate of service and return card is returned by the addressee.

I would like to share a few vital pieces of information regarding the service of subpoenas on some of the organizations I visit frequently. My hope is that I can shed some light on the mysteries of this process and answer any questions you may have thought of in the past.

First, I'll address the service of subpoenas to health care providers. Most providers mistakenly believe they have a ten-day period from the time a subpoena duces tecum is served until they are required to produce requested documents. Health care providers expect that the production date listed on the subpoena will allow them at least ten days to produce documents. When the period for production is less than ten days from the date of service, they tend to resort to calculating ten days from the date of service. Frequently, providers also want to charge copying fees for requested documents.

In support of their position that providers should have ten days to produce documents and be able to charge copy fees for reproduction, they will often begin to quote A.R.S. §12-2282. Usually the person reciting this statute has not read the entire section. As a governmental entity, the Public Defender's Office is not required to provide ten days notice or to pay copying fees. Obviously, it may be in our best interest to adhere to a ten-day notice as a courtesy since our office may have regular contact with the same health care providers. Some health care providers that the office routinely subpoenas documents from, along with specifics on each, are as follows:

Arizona Department of Corrections 2005 North Central Avenue Phoenix, Arizona 85004	If we attempt service of a subpoena duces tecum on ADOC, they believe they are forced to charge us a copying fee. They will, however, accept an originally signed authorized release form only and not charge for the records. So until they change their copy fee policy with regards to subpoenas, all that is required to obtain medical records from ADOC is an originally signed records release authorization and a cover letter.
Maricopa County Medical & Mental Health Center 2601 East Roosevelt Phoenix, Arizona 85008	Sometimes we ask for medical records when what we are really looking for are mental health records. The Medical Center and Mental Health Center are operated as separate entities. If you need both medical and mental health records, you will need to issue two subpoenas, so remember to make the distinction.
Maricopa County Correctional Health Services 111 West Monroe, 9 th Floor Phoenix, Arizona 85003	The Sheriff's Department does not have a medical department. Maricopa County Correctional Health Services is the medical agency in the jails that provide health care for in-custody clients. They require an originally signed records release authorization in addition to a subpoena. It would be to our advantage, when first contacting our clients to have them sign 3 or 4 record release forms should a records request become necessary.

Next, I'd like to discuss information pertaining to local law enforcement agencies. Please allow at least three days notice when serving law enforcement officers at any of the valley police departments. An exception is the Arizona Department of Public Safety. DPS expects five days notice for all local patrolmen and ten days notice for patrolman outside Maricopa County. Additional address information regarding each valley law enforcement agency which should prove useful is provided in the sidebar to this article.

Finally, I would like to share some general information regarding the service of subpoenas that may prove beneficial. While subpoenas for cases assigned to the Southeast Judicial Facility, S.E.F. Juvenile, and Durango Juvenile may be issued at the Clerk's Office downtown, the completed subpoena and certificate of service must be filed with the Clerk's Office at the appropriate Superior Court location. Also, remember that justice court subpoenas must be issued and filed in that justice court. The heading of the subpoena must read as set forth below and is must be signed by that court's J.P. or Magistrate, not Michael K. Jeanes.

The _____ Justice Court of the State of Arizona in and for the County of Maricopa

That's all I have for now. I hope I have shed some light on the service of subpoenas for you and that you find this information helpful in the future.

Local Law Enforcement Agencies

Maricopa County Sheriff's Office 102 West Madison Phoenix, Arizona 85003 Or 100 West Washington, Suite 1900 Phoenix, Arizona 85003 Subpoenas for booking records or photos are served at 102 West Madison, across from the cafeteria. Generally, Mary James is the employee who accepts subpoenas for the MSCO Custodian of Records. All other records subpoenas (e.g. personnel records or requests for information other than booking records) are delivered to the MCSO's Administrative Offices at 100 West Washington, Suite 1900 to the attention of Grace Fribbs or Bruce Barton. Subpoenas requiring the appearance of a MCSO employee, deputy, and/or detention officer are also delivered to the MCSO's Administrative Offices.	Phoenix Police Department 300 W. Washington Phoenix, Arizona, 85003 Court Services is in basement	Tempe Police Department 120 E. Fifth St. Tempe, Arizona 85281
	Glendale Police Department 6835 N. 57 th Drive Glendale, Arizona, 85301	Chandler Police Department 250 E. Chicago St. Chandler, Arizona, 85225
	Scottsdale Police Department 9065 E. Via Linda Scottsdale, Arizona, 85258	Avondale Police Department 521 E. Western St. Avondale, Arizona, 85323
	Mesa Police Department 120 N. Robson Mesa, Arizona, 85201	Arizona Department of Public Safety 2102 W. Encanto Phoenix, Arizona, 85009

Maricopa County Office of the Public Defender

Vision Statement

TO DELIVER AMERICA'S PROMISE OF JUSTICE FOR ALL

Mission Statement

The Office of the Public Defender protects the fundamental rights of all individuals, by providing effective legal representation for indigent people facing criminal charges, juvenile adjudications, and mental health commitments, when appointed by Maricopa County Superior and Justice Courts.

Goals

- ◆ To protect the rights of our clients and guarantee that they receive equal protection under the law, regardless of race, creed, national origin or socio-economic status
- ◆ To obtain and promote dispositions that are effective in reducing recidivism, improving clients' well-being and enhancing quality of life for all
- ◆ To ensure that all ethical and constitutional responsibilities & mandates are fulfilled
- ◆ To enhance the professionalism and productivity of all staff
- ◆ To produce the most respected and well-trained attorneys in the indigent defense community
- ◆ To work in partnership with other agencies to improve access to justice and develop rational justice system policies
- ◆ To achieve recognition as an effective and dynamic leader among organizations responsible for legal representation of indigent people
- ◆ To perform our obligations in a fiscally responsible manner

FEBRUARY 2001 JURY AND BENCH TRIALS

OFFICE OF THE LEGAL DEFENDER

Dates: Start–Finish	Attorney Investigator <i>Legal Assistant</i>	Judge	Prosecutor	CR# and Charge(s)	Result	Bench or Jury Trial
1/16–1/29	Taylor/Ivy Apple	Willrich	Vercauteren	CR1998-94576 1° Murder, F1D Kidnapping, F2D Sexual Assault, F2D 1° Burglary, F2 D Armed Robbery, F2D	Pled During Third Week of Trial; 1° Mur- der, F1 Dangerous; Life Without Parole/ No Death Penalty & Dismissed Counts 2-5	Jury
1/18–2/6	Miller Horral	Reinstein	Barry	CR1999-12663 Conspiracy to Commit Armed Robbery, F2D 2 cts. Armed Robbery, F2D 2 cts. 1° Murder, F1D Conspiracy Commit 1° Mur- der, F1D	Guilty on All Counts Except Not Guilty 1 ct. Armed Robbery, F2D	Jury
2/6 – 2/8	Shaler Reger	Cole	Kalish	CR2000-04960 Narcotic Drugs-Possess/Use, F4 Possess Drug Paraphernalia, F6	Guilty	Jury
2/15–2/19	Steinle	Gottsfeld	Myers	CR1999-11565 Kidnapping, F2 Dangerous	Guilty	Jury

OFFICE OF THE LEGAL ADVOCATE

Dates: Start–Finish	Attorney Investigator <i>Legal Assistant</i>	Judge	Prosecutor	CR# and Charge(s)	Result	Bench or Jury Trial
1/29 -2/12	Logan	Martin	Sorrentino	CR2000-001098 6 cts Kidnapping; 9 cts Sexual Conduct w/minor; 2 cts At- tempted Sexual Conduct w/minor	Guilty on all but 3 counts	Jury

FEBRUARY 2001 JURY AND BENCH TRIALS

GROUP A

Dates: Start–Finish	Attorney Investigator <i>Legal Assistant</i>	Judge	Prosecutor	CR# and Charge(s)	Result	Bench or Jury Trial
2/1	Hall	Tolby	Vanpelt	CR00-02078MI IJP CR00-01056MI IJP CR00-01771MI IJP	Not Guilty 2 cts.; 1 ct. dismissed day of trial	Bench
2/2	Hernandez	O'Toole	Hunt	CR00-14094 Agg. Assault, F3 MIW with a prior, F4	Not Guilty Agg.Assault Guilty MIW w/prior	Bench
2/7	Knowles	Kamin	Gellman	CR00-14595 Leaving Scene Injury Accident, F6 DUI, M1	Dismissed with preju- dice day of trial	Jury
2/7	Rock	Anderson	Hunt	CR00-15320 Vulnerable Adult Abuse, F4	Dismissed day of trial	Jury
2/8-2/12	Hernandez	Padish	Toftoy	CR00-15796 Resisting Arrest, F6	Guilty	Jury
2/8-2/13	Farrell Jones	Budoff	Klish	CR00-12102 Burglary 3 rd Degree, F4 Poss. Burglary Tools, F6 w/ priors	Guilty	Jury
2/12-2/13	Valverde	Schwartz	Washington	CR00-17464 Burglary 2 nd Degree, F3	Guilty	Jury
2/14-2/20	Valverde	Schwartz	Hunt	CR00-15409 Child Abuse, F4	Guilty	Jury
2/14	Howe	Schneider	Duvendack	CR00-15892 POND, F4 PODP, F6 with 2 allegeable priors	Mistrial then COP to F6 with 2 priors con- current to two proba- tion cases	Jury
2/20	Hall	Tolby	Vanpelt	TR00-02360 DUI, M1	Pled to Reckless Driv- ing day of trial	Bench
2/21-3/2	Farney/Reece	Schwartz	Hunt	CR00-16467 3 cts. Agg. Assault, F3D	Hung 1 count (11-1 not guilty); Guilty Count 2; Not Guilty Count 3	Jury
2/27	Noland/ Valverde Elzy	Watkins	Eliason	CR01-01656 Criminal Damage, M2	Guilty	Bench
2/27	Hall	Tolby	Vanpelt	TR99-0775 2 nd DUI, M1	Pled to 1 st time DUI on day of trial	Bench
2/20-2/23	Hernandez Clesceri	McVey	Ditsworth	CR00-14002 Murder 2°, F1	Hung (5-3) Not Guilty	Jury

FEBRUARY 2001 JURY AND BENCH TRIALS

GROUP B

Dates: Start–Finish	Attorney Investigator <i>Legal Assistant</i>	Judge	Prosecutor	CR# and Charge(s)	Result	Bench or Jury Trial
2/1	Tom Kasieta	Gottsfeld	Shreve	CR00-16738 2 cts. Aggravated Assault, F3D	Dismissed Day of Trial	Jury
2/1 – 2/5	Blieden Casanova	Hilliard	Baca	CR97-04892 Aggravated Robbery, F3	Not Guilty	Jury
2/6	Maga King	Gastelum	Robaina	MCR00-01330 2 cts. Assault, M1 Leaving the scene of Accident, M1	Guilty	Bench
2/6 – 2/8	Gray Erb	McClennen	Simpson	CR00-15391 2 cts. Aggravated DUI, F4	Guilty	Jury
2/8 – 2/12	Roth	Gottsfeld	Green	CR00-12535 POND for Sale, F2	Not Guilty POND for Sale; Guilty POND, F4	Jury
2/12	Tom Casanova	Gottsfeld	Mueller	CR00-12519 Aggravated Assault, F3	Pled on Day of Trial	Jury
2/12 – 2/16	Noble Erb <i>Oliver</i>	Hotham	Sampson	CR00-14246 2 cts. Aggravated Assault on Officer, F2D 8 cts. Endangerment, F6D IJP, M1	Not Guilty 2cts Endanger; Guilty on 6cts lessor included Misd. Endanger; Guilty on 2cts, Agg. Asslt on Officer Dang.; IJP – Dismissed w/ prejudice	Jury
2/14	Giancola Bublik <i>Wells</i>	Guzman	Robaina	TR00-02855 DUI, M1	Guilty	Jury
2/14 – 2/23	Navazo <i>Wells</i>	Martin	Lemke	CR00-01253 4 cts. Aggravated DUI, F4	Guilty	Jury
2/20 – 2/26	Primack Muñoz <i>Wells</i>	Katz	Workman	CR00-15093 Agg. Assault, F3 Resisting Arrest, F6 Disorderly Conduct, M1	Hung jury-Agg. Assault (5-3); Guilty-Resisting Arrest and Disorderly Conduct	Jury
2/27 – 2/28	Agan	Dougherty	Shreve Flanagan	CR00-02606 2 cts. Sale of Narcotic Drugs	Guilty	Jury
2/28	Owens	Kaufman	Charnell	CR00-15494 Resisting Officer Arrest, F6 Aggravated Assault, F6	Not Guilty	Jury

FEBRUARY 2001 JURY AND BENCH TRIALS

GROUP C

Dates: Start–Finish	Attorney Investigator <i>Legal Assistant</i>	Judge	Prosecutor	CR# and Charge(s)	Result	Bench or Jury Trial
1/29 – 2/5	Davis / Little Thomas	Jarrett	Holtry	CR00-92485 Agg Assault, F2D Flt Frm Purs Law Veh, F5N 4 cts Endangerment, F6D	Guilty	Jury
2/6	Rossi	Barker	Harrison	CR00-95138 Agg Assault, F6N	Dismissed day of trial	Jury
2/6 – 2/7	Logsdon / Ramos	Cates	Blair	CR00-96079 POM/Grow/Proc, F6N	Not Guilty	Jury
2/7 – 2/12	Cutrer / Ramos	Barker	Griblin	CR00-94150 POND, F4N	Mistrial	Jury
2/9	Ziembra / DuBiel	Hamblen	Llanes	TR00-11707CR DUI, M1N	Guilty	Jury
2/13 – 2/14	Cutrer / Ramos	Barker	Griblin	CR00-94150 POND, F4N	Guilty	Jury
2/13	L. Moore	Keppel	Wilson	CR99-95338 Agg Assault w/dedly wpn, F3D	Pled day of trial	Jury
2/13	Hamilton Shoemaker	Oberbillig	Brooks	CR00-95472 Forgery, F4N	Dismissed w/o preju- dice day of trial	Jury
2/13 – 2/15	Leonard / Ozer Kresicki	Jarrett	Gordwin	CR00-96200 Veh Vin Vio, F5N Theft of Mns of Tran, F3N	Guilty	Jury
2/14	Hamilton	Jarrett	Rosales	CR00-95862 Fail to regis sex off, F4N	Pled day of trial	Jury
2/14 – 2/15	Aslamy Casanova	Schneider	Kuhl	CR00-16661 Unlawful Flight, F5N	Pled day of trial	Jury
2/15	Hamilton Klosinski	Oberbillig	Udall	CR00-96192 POND, F4N PODP, F6N	Dismissed w/prejudice day of trial	Jury
2/27	Felmly	Oberbillig	Rosales	CR00-94885 Agg Assault, F3D Crim Damage, F5N	Pled day of trial	Jury

FEBRUARY 2001 JURY AND BENCH TRIALS

GROUP D

Dates: Start–Finish	Attorney Investigator <i>Legal Assistant</i>	Judge	Prosecutor	CR# and Charge(s)	Result	Bench or Jury Trial
2/1	Clemency	McVay (a Pro Tem that day)	Denny	MCR00-01915 IJP	Dismissed after mistrial	Bench
2/1	Clemency	McVay	Denny	MCR00-01958 IJP	Not Guilty	Bench
2/1 – 2/6	Harris	Budoff	Simpson	CR00-09588 POND PODP	Hung Jury	Jury
2/5	Billar	Donahoe	Bernstein	CR00-12492 Aggravated Assault, F4	Dismissed day of trial	Jury
2/5	Carter	Gerst	Kamis	CR00-15074 Theft Means of Transportation	Guilty	Jury
2/9	Berko	Cole	Anagnopoulos	CR00-14090 Disorderly conduct, F6D Criminal Trespass, F6	Dismissed w/o prejudice day of trial	Jury
2/12	Harris	Reinstein	Simpson	CR00-12043 Agg DUI	Pled day of trial to misd dui and endangerment	Jury
2/12 – 2/13	Cain Schreck	DeMars	Loefgren	TR00-17821 DUI	Hung	Jury
2/12-2/15	Eskander Berko O'Farrell	Davis	Anagnopoulos	CR00-10608 Disorderly Conduct, F6D	Guilty disorderly conduct but not guilty on allegation of dangerous	Jury
2/20	Reid Silva	Schneider	Kever	CR00-17740 POND-Sale, PODP	Pled day of trial	Jury
2/22	Adams / Enos Bradley Rivera	Budoff	Clayton	CR00-15679 Promote Prison Contraband, F2 2 Cts. Promote Prison Contraband, F5	Pled day of trial 1 ct. Promote Contraband F5	Jury
2/22	Clemency	Budoff	Fitzpatrick (AG)	CR99-11067 Attempt Child Molest, F3 Burglary, F3	Pled day of trial to criminal trespass, 6 open; No sex terms	Jury
2/27-2/28	Billar	Padish	Brnovich	CR00-14052 Child Abuse, F4	Hung Jury	Jury

FEBRUARY 2001 JURY AND BENCH TRIALS

GROUP E

Dates: Start– Finish	Attorney Investigator <i>Legal Assistant</i>	Judge	Prosecutor	CR# and Charge(s)	Result	Bench or Jury Trial
1/31 – 2/1	Kent/Pajerski	Araneta	Hanlon	CR 00-12190 Agg Asslt., F4	Hung Jury (7-1 N.G.)	Jury
2/6 – 2/7	Dergo Reilly	Gerst	Mayer	CR00-14995 Thft. Mns. Trsp., F3	Guilty	Jury
2/7	Flynn	Araneta	Simpson	CR00-15484 Burg., F3 Att. Theft Motor Veh., F4	Pled to Theft, F6 day of trial	Jury
2/8 - 2/12	Ackerley Souther	Jones	Rodriguez	CR00-12247 Burglary, F4	Guilty of Crim. Tresp., M2 (Lesser- Included)	Jury
2/12	Dergo	Heilman	Berstein	CR00-15903 Agg. Asslt., F6 IJP, M1	Guilty Asslt., M1	Bench
2/14	Walker	Araneta	Blumenreich	CR00-05928 Traff. Stolen Prop., F3	Dismissed w/o prej. day of trial	Jury
2/20 - 2/22	Ackerley Del Rio	Padish	Ireland	CR00-15559 POM/FS, F2 Misc. Inv. Weap., F4	Not Guilty on Sale Guilty of POM, F4 Guilty Misc. Inv. Weap.	Jury
2/16	Rock	Reinstein	Blumenrich	CR00-15111 2 Cts. Armed Robb.,	Pled day of trial	Jury
2/21	Pajerski	Heilman	Brnovich	CR00-13456 Agg. Asslt., F6	Pled to misd. day of trial	Jury
2/28	Dergo Castro	Heilman	Brnovich	CR00-16691 2 Cts. Agg. Asslt., F5	Dismissed day of trial	Jury

for The Defense

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